



County of Los Angeles CHIEF EXECUTIVE OFFICE

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May 23, 2013

To: Supervisor Mark Ridley-Thomas, Chairman
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

A handwritten signature in dark ink, appearing to read "W. Fujioka", is written over the printed name and title.

SACRAMENTO UPDATE

Executive Summary

This memorandum contains reports on the following:

- **Pursuit of County Position on Legislation**
 - **AB 667 (Hernández).** This measure would require a local agency to do an economic impact report prior to permitting the construction or alternation of a superstore in an economic assistance area or where a superstore would be the recipient of over \$100,000 in financial assistance, and requires the local agency to make a finding that the superstore will not adversely affect the economic welfare of the impact area, based on that report. Therefore, unless otherwise directed by the Board, consistent with existing policies to: 1) oppose legislation that infringes upon county board of supervisors' local land use decision-making authority; and 2) oppose legislation that would constitute State unfunded land use and general plan related mandates on local governments, **the Sacramento advocates will oppose AB 667.**
 - **SB 673 (DeSaulnier).** This measure would require a city, county, or city and county to ensure a cost benefit analysis be prepared, paid for by the project applicant, prior to approving or disapproving a proposed development project estimated to receive over \$1.0 million in subsidies. Therefore, unless

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otherwise directed by the Board, consistent with existing policies to:
1) oppose legislation that infringes upon county board of supervisors' local land use decision-making authority; and 2) oppose legislation that would constitute State unfunded land use and general plan related mandates on local governments, **the Sacramento advocates will oppose SB 673.**

- **Legislation of County Interest**

- **AB 1359 (Hernández).** This measure would allow local governments to use Quimby Act fees paid by developers for community parks and recreational facilities, which are currently reserved for use only within the subdivision of the development, to be reallocated for use areas of greatest need, within the same city or county of that development; and 2) require the local legislative body to hold a public hearing before using such fees for this purpose.

Pursuit of County Position on Legislation

AB 667 (Hernández), which as amended on May 20, 2013, would require a city, county, or city and county, prior to approving or disapproving a proposed development project that would permit the construction of a superstore retailer to cause an economic impact report to be prepared, to be paid for by the project applicant, and that includes specified assessments and projections. The bill would also require the governing body to provide an opportunity for public comment on the economic impact report.

The Permit Streamline Act within the Planning and Zone Law requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within a specified number of days from the date of certification of an environmental impact report, the date of the adoption of a negative declaration, or the determination by the lead agency that the project is exempt from the California Environmental Quality Act (CEQA).

AB 667 would require that an economic impact report, paid for by the project applicant, be prepared, before a local jurisdiction approves or disapproves the construction of a superstore retailer, as defined. Specifically, the bill would require that: 1) prior to the permitting of the construction of, the addition to, or the alteration of, any buildings or structures which would create a superstore in an economic assistance area, or where a superstore would be the recipient of over \$100,000 in financial assistance, in addition to the findings otherwise required by any ordinance or regulation of the city, county, or city and county, the legislative body shall make a finding that, based on consideration of all economic benefits and costs, the superstore will not materially adversely affect the

economic welfare of the impact area; and that 2) following the completion and approval of the economic impact report, the governing body provide the opportunity for public comment on the economic impact report and its findings at any regularly scheduled meeting of the legislative body and 30 days prior to the issuance of any entitlement, including but not limited to a building permit. The findings made by the legislative body shall be based upon information contained in an economic impact report, any other information received or obtained by the designated agency of the city, county, or city and county, and any other information received before or at a public hearing conducted as required by this measure.

The bill provides that the local government may prepare the economic impact report or contract with a qualified private entity, other than the permit applicant, or with another qualified public agency for preparation of the report. AB 667 requires the economic impact report to include, among other things, an assessment of: 1) whether the proposed superstore will meet the purposes of any designated economic assistance area; 2) whether the proposed superstore will negatively impact any retailer that is the beneficiary of any benefits from any program adopted in connection with any designed economic development area; 3) the effect on wages and benefits of employees and community income levels in the impact area; 4) the projected costs of public services and public facilities resulting from the construction and operation of the proposed superstore; 5) the public revenues resulting from the construction and operation of the proposed superstore retailer and the incidence of those revenues; and 6) the effect that the construction and operation of the proposed superstore will have on retail operations, including grocery stores or retail shopping centers, in the impact area, including the potential for blight resulting from retail business closures and the nature of any businesses displaced.

AB 667 defines "economic assistance area" as existing economic development areas including enterprise zones, manufacturing incentive areas, targeted tax areas, or redevelopment areas. Financial assistance is defined as any appropriation of public funds, any tax incentive, the sale or lease of real property at a cost that is less than fair market value, and payment for, forgiveness of, or reduction in fees. For the purposes of this bill, an impact area would mean a five-mile radius surrounding the proposed location of a superstore.

The Department of Regional Planning (DRP) reports that, in making land-use decisions, local jurisdictions should have the authority to exercise their regulatory powers, including requiring specialized studies according to local conditions and circumstances. Because the County oversees a diverse unincorporated territory, it is important that it maintains flexibility in its discretionary review of land entitlement applications to accommodate various community needs. DRP indicates that the County, at its

discretion, can already require an economic impact report be prepared for any project, if deemed necessary. AB 667 would mandate that an economic impact report be prepared even if the County is to deny a superstore project solely for land use compatibility reasons.

In addition, the Department of Regional Planning states the data required in an economic impact report, such as retail employment, wages, and benefit levels may infringe on proprietary information. Therefore, it is foreseeable that the data would be difficult to obtain, and thus create more uncertainty and delay in the permitting process. DRP believes that local governments should retain the discretion to cause an economic impact report to be prepared prior to approval or disapproval of a superstore.

AB 667 is substantially similar to **County-opposed SB 469 (Vargas)** of 2011, which would have required the inclusion of an economic impact report in any retail superstore development project permit application submitted to a city, county or city and county. That bill was vetoed by Governor Brown on October 10, 2012. In his veto message, the Governor indicated that while the merits of large-scale projects need to be carefully considered, many current laws enable and in some cases, require cities and counties to carefully assess whether these projects are in a community's best interests. The Governor also indicated that SB 469 would have added yet another layer of review to an already cumbersome development project review process.

The Department of Regional Planning and this office oppose AB 667. Therefore, unless otherwise instructed by the Board, **consistent with existing policies to: 1) oppose legislation that infringes upon county board of supervisors' local land use decision-making authority; and 2) oppose legislation that would constitute State unfunded land use and general plan related mandates on local governments, the Sacramento advocates will oppose AB 667.**

AB 667 is sponsored by United Food and Commercial Workers; Western States Councils and supported by: Asian Pacific American Labor Alliance; Chinatown Community for Equitable Development; East Bay Alliance for a Sustainable Economy; International Longshore and Warehouse Union; Los Angeles Alliance for a New Economy; Orange County Communities Organized for Responsible Development; UNITED HERE; City of San Diego Mayor Bob Filner; Pomona City Councilmembers Debra Martin, John Nolte and Freddie Rodriguez; Baldwin Park City Councilmembers Susan Rubio and Richard Pacheco, El Monte City Councilmember Norma Macias, Covina City Councilmember Jorge Marques, among others.

The bill is opposed by: The Associated General Contractors; California Building Industry Association; California Chamber of Commerce; California Grocers Association;

California Retailers Association; Commercial Real Estate Development Association; International Council of Shopping Centers; League of California Cities; and Retail Industry Leaders Association.

AB 667 passed the Assembly Local Government Committee by a vote of 5 to 4 on May 1, 2013. The measure is scheduled for a hearing in the Assembly Appropriations Committee on May 24, 2013.

SB 673 (DeSaulnier), which as amended on May 21, 2013, would require a city, county, or city and county, prior to approving or disapproving a proposed development project that would permit the construction of retail or other commercial facility project estimated to receive over \$1.0 million in subsidies, to cause a cost benefit analysis to be prepared, paid for by the project applicant.

The Permit Streamlining Act requires the lead agency that has the principal responsibility for approving a development project, as defined, to approve or disapprove the project within 60 days from the date of adoption of a negative declaration or the determination by the lead agency that the project is exempt from the California Environmental Quality Act, unless the project proponent requests an extension of time.

SB 673 would require a local government to have a cost benefit analysis prepared for any proposed retail or commercial facility that receives \$1.0 million or more in subsidies from the State or a local government. The bill authorizes a city, county, or city and county to prepare the cost-benefit analysis or contract for its preparation with a private entity, other than the permit applicant, or a public entity. The private entity or public agency must be qualified by education, training, and experience to conduct cost-benefit analyses. SB 673 requires the development project applicant to pay the city, county, or city and county, for the costs of preparing or contracting for the cost-benefit analysis.

The cost benefit analysis could include specified assessments, including but not limited to: 1) a projection of public costs, resulting from the proposed development's construction and operation, and the incidence of those costs; 2) a projection of the public revenues from the proposed development's construction and operation, and the incidence of those revenues; 3) the cost of subsidies provided by a city, county, or city and county; 4) an assessment of the proposed development's construction and operation impact on the city, county, or city and county's ability to implement its general plan goals; 5) an assessment of whether the proposed development's construction and operation will be consistent with policies specified for the project area's sustainable communities strategy or alternative planning strategy; 6) an assessment of whether the development would require housing demolition, or would decrease or negatively impact extremely low, very low, low-, or moderate-income housing creation; 7) an assessment

of whether the development would destroy or demolish parks, green space, playgrounds, child care facilities, or community centers; 8) an assessment on whether the development would create adverse or positive economic impact or blight; 9) an assessment of whether the proposed development would adversely impact a State transportation facility, and the extent it would degrade the facility's service; and 10) an assessment of any available measures to mitigate any material adverse economic impact, as identified by the applicant.

SB 673 defines subsidy as a contribution made by the State or local government to a project considered to be in the interest of the public, including but not limited to; tax credits, low-interest loans, State or Federal grants, land donations or acquisitions, or remediation or environmental cleanup activity.

The Department of Regional Planning (DRP) reports SB 673, like AB 667, would create an unnecessary burden on the County's land-use permitting process and infringe on the County's local land use decision-making authority. The County currently requires that a cost-benefit analysis be prepared for any project, if deemed necessary. SB 673 would mandate that a cost benefit analysis be prepared even if the County is to deny a project solely for land use compatibility reasons.

In addition, the Department of Regional Planning notes that SB 673 is prescriptive regarding the type of information which must appear in the cost benefit analysis and would create unnecessary burden for the County. For example, information such as the cost of the public services and public revenues for a specific project is not usually readily available to private consultants and the County would not be able to defer the responsibility of providing such information or verifying data accuracy in the analysis. DRP also indicates that other data required such as construction and operation costs may infringe on proprietary information. Therefore it is foreseeable that the data would be difficult to obtain and thus would create more uncertainty in the permitting process.

The Department of Regional Planning and this office oppose SB 673. Therefore, unless otherwise instructed by the Board, **consistent with existing policies to: 1) oppose legislation that infringes upon county board of supervisors' local land use decision-making authority; and 2) oppose legislation that would constitute State unfunded land use and general plan related mandates on local governments, the Sacramento advocates will oppose SB 673.**

SB 673 is supported by California Labor Federation AFL-CIO and California Professional Firefighters. The bill is opposed by: The American Council of Engineering Companies, California; Building Owners and Managers Association of California; California Association for Local Economic Development; California Building Industry

Association; California Business Properties Association; California Chamber of Commerce; City of Vista; Construction Employers Association; International Council of Shopping Centers; League of California Cities; National Association of Industrial Office Parks of California - the Commercial Real Estate Development Association.

SB 673 was passed out the Senate Appropriations Committee without a hearing on May 6, 2013. This measure is currently pending on the Senate Floor.

Legislation of County Interest

AB 1359 (Hernández), which as amended on April 29, 2013, would allow local governments to reallocate Quimby fees to develop parks and recreational facilities for areas of greatest need within a city or county.

The Quimby Act allows the legislative body of a city or county to enact ordinances to require developers to pay a fee or dedicate land, or combination thereof, to be used to develop new or rehabilitate existing park or recreational facilities for use by the residents within as a condition of approval of a tentative map or a parcel map. Currently, the Quimby Act requires local governments to spend Quimby funds within one or two miles of the new development.

AB 1359 would amend existing law to:

- 1) Allow Quimby fees to be used to develop new or rehabilitate existing park and recreational facilities in the subdivision of the development with the greatest need;
- 2) Require the legislative body to hold a public hearing before using such fees;
- 3) Define subdivision or subdivisions of the city or county with the greatest need as a subdivision with fewer than three acres of park area per 1,000 members of a city, county, or local public agency; and
- 4) Allow a city, county, or other local agency to which the land or fees are conveyed to enter into a joint or shared use agreement with one or more public districts in the jurisdiction, including school districts, to provide access to park or recreational facilities to residents of subdivisions with fewer than three acres of park area per 1,000 members of the population.

Existing law defines any geographic area that provides less than three acres of green space per 1,000 residents to be park poor areas.

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The Department of Parks and Recreation (DPR) acknowledges the author's intent to allocate more resources to create additional green space for park-poor areas and reduce geographical disparities and inequality access to parks. However, the Department indicates that the existing Quimby Act should not be amended to allow fees to be reallocated to serve park-poor areas outside the subdivision for which the developer has paid the Quimby fees. According to DPR, these fees are intended to offset or compensate the community for the impact imposed by the development in the very area in which the development is located. DPR also notes that Quimby funds need to remain within the subdivision of the development so that fees can be used to add additional park space to fulfill the needs created by the new development. DPR further indicates that other funding mechanisms would better address the needs of park-poor areas with few to no new residential developments.

AB 1359 is supported by: The City of Baldwin Park; The City Project; Amigos de Los Rios; United Food & Commercial Workers International Union - Local 1428; and California Pan-Ethnic Health Network. This measure is opposed by the California Building Industry Association.

AB 1359 passed the Assembly Local Government Committee by a vote of 5 to 0 on May 8, 2013. This measure is currently on the Assembly Floor.

This office will continue to work with affected departments to determine the potential impact to the County.

We will continue to keep you advised.

WTF:RA
MR:OA:KL:ma

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association
League of California Cities
City Managers Associations
Buddy Program Participants